

September 20, 2002

**San Francisco Bay Conservation
and Development Commission**

**Notice of Proposed Rulemaking to
Add Section 11021 that Identifies Areas that are not Available for Siting
New Thermal Power Plants that Generate 50 Megawatts
or More of Electricity and Ancillary Facilities**

Time, Place and Nature of Proceedings: The San Francisco Bay Conservation and Development Commission gives notice that it will hold a public hearing on Thursday, November 7, 2002, at 1:00 p.m. at Pier 1 on the Embarcadero, San Francisco, California concerning the proposed addition of Section 11021 to Division 5 of Title 14 of the California Code of Regulations that would identify areas within the Commission's jurisdiction that are not available for siting new thermal power plants that generate 50 megawatts or more of electricity and ancillary facilities.

Authority and Reference:

Authority: Sections 66632(f) and 66645, Government Code; and Section 29201(e), Public Resource Code.
Reference: Section 66645, Government Code; the *San Francisco Bay Plan*; the *Suisun Marsh Protection Plan*; and Sections 25507 and 25523, Public Resource Code.

Informative Digest/Policy Statement Overview:

The Commission is required by California Government Code Section 66645 to identify areas within its jurisdiction where power plants may not be sited and to update this list. Currently, the Commission does not have a regulation that identifies these sites. The proposed regulation would establish areas at which power plants and ancillary facilities may and may not be sited. The categories will be based on an analysis of the Commission's laws and policies.

Mandate to Local Agency or School District: None

Costs to Local Agency or School District: None

Other Nondiscretionary Costs or Savings Imposed upon Local Agencies: None

Cost or Savings to State Agencies or in Federal Funding to the State: None

Significant Effect on Housing Costs: None

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States: None, because the proposed regulation only identifies areas that, based on analysis of the Commission's laws and policies,

would not be available for the construction of thermal power plants that generate 50 megawatts or more of electricity. The proposed regulation does not preclude power plants nor does it create any new policy or impose any new requirement on business.

Creation or Elimination of Jobs or Business, or Expansion of Business, in California: The Commission has made an assessment that the proposed regulations would not (1) create or eliminate jobs within California, (2) create new businesses or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

Business Reporting Requirements: None.

Cost Impact on Representative Persons or Businesses: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Small Business: None. The regulation would only identify areas that, based on analysis of the Commission's existing laws and policies, would not be available for the construction of power plants. The proposed regulation does not create any new policy or impose any new requirement on business.

No-More-Effective Alternative: The Commission must determine that no reasonable alternative that it considered or that has otherwise been identified or brought to its attention would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Contact Person and Backup: Inquiries and substantive questions on the proposed regulation should be directed to Ellen M. Sampson, Staff Counsel, San Francisco Bay Conservation and Development Commission, 50 California Street, Suite 2600, San Francisco, California 94111 or to Ms. Sampson at (415) 352-3610 or email at ellens@bcdc.ca.gov. If Ms. Sampson is unavailable, please contact Lindy Lowe at the above address or at (415) 352-3645 or email at lindyl@bcdc.ca.gov.

Availability of Express Terms of Proposed Regulation and Initial Statement of Reasons: The text of the proposed regulation, an initial statement of reasons for the changes and all supporting information are available for review at the Commission's office pursuant to Government Code Section 11346.5. Copies of the text and initial statement of reasons can be obtained by contacting Ms. Sampson (see Contact Person above) or by visiting the Commission's web site at www.bcdc.ca.gov from which the documents may be reviewed and printed.

Date by Which Written Comments Must be Received and Where Directed: Written comments submitted in advance of the public hearing on this matter should be directed to Ms. Sampson at the Commission's office (see Contact Person, above) and must be received no later than Wednesday, November 6, 2002, at 5:00 p.m. Written comments will be accepted on Thursday November 7, 2002, during the public hearing on this matter at the time and place listed above. The Commission may close the public comment period at the close of the public hearing on November 7, 2002.

Availability of Changes to Proposed Regulation: Pursuant to Government Code Section 11346.8, the full text of substantial changes to the proposed section, if any, shall be made available to the public for at least 15 days prior to the date on which the Commission determines whether to adopt the proposed regulation.

Rulemaking File: A rulemaking file for this rulemaking activity is maintained at the Commission's office and is available for public review during the Commission's normal business hours (Monday through Friday, 9 a.m. to 5 p.m.). Requests to review the rulemaking file should be directed to Ms. Sampson (see Contact Person above).

Final Statement of Reasons: Once prepared, the final statement of reasons will be available as part of the Commission's rulemaking file and may be reviewed at the Commission's offices or obtained by calling Ms. Sampson (see Contact Person above).

Internet Access: The proposed regulation and related documents will be available for review and printing on the Commission's web site at www.bcdc.ca.gov.